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California Regional Water Quality Control Board

Los Angeles Region

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Aziz Elattar
Caltrans, District 7
Office of Environmental Planning
120 S. Spring Street
Los Angeles, CA 90012

CONDITIONAL CERTIFICATION FOR PROPOSED AND "AFTER-THE-FACT" ACTIVITIES: ROUTINE MAINTENANCE DRAIN CLEARING ACTIVITIES FOR WINTER 2001 PROJECT (Corps' Project No. 2002-00183-SAD), VARIOUS RECEIVING WATERS, LOS ANGELES/VENTURA COUNTIES (File No. 01-123)

Dear Mr. Elattar:

In accordance with §3855 of Title 23 of the California Code of Regulations, an application for a Clean Water Act §401 Water Quality Certification shall be filed with the Regional Board Executive Officer in advance of any discharge. The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), notes that your application request, on behalf of the California Department of Transportation, District 7 (the-Applicant), includes "after the fact" activities that were conducted without the required prior certification due to emergency conditions. Activities involved the excavation of excess sediment and vegetation from various flood channels. In recognition of our inability to appropriately characterize the pre-project conditions, we have increased the mitigation ratio component of your certification to ensure that we have addressed all the impacts associated with your project. The Regional Board expects that all future violations will be avoided and that any impending projects involving a discharge will be fully authorized prior to commencement of work activities. Any future violations may require a mitigation ratio of up to 5:1 and potential civil liabilities of \$10,000 per day.

Your application was deemed complete on December 20, 2001.

I hereby certify that there is a reasonable assurance that the discharge from the Routine Maintenance Drain Clearing Activities for Winter 2001 Project, as proposed and described in Attachment A, if performed in accordance with all applicable water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region* (1994), and in accordance with the conditions specified in Attachment B, will comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits. Finally, this Certification does not foreclose the imposition of appropriate penalties for failure to obtain this Certification prior to commencement of work.

Should you have questions concerning this certification action, please contact Jason Lambert, Lead, Section 401 Program, at (213) 576-5733.

[original signed by]
Dennis A. Dickerson
Executive Officer

[January 22, 2002]
Date

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption
For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>



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ATTACHMENT A

Project Information File No. 01-123

1. Applicant: California Department of Transportation, District 7
120 S. Spring Street
Los Angeles, CA 90012
Phone: (213) 897-0686 Fax: (213) 897-0685
2. Applicant's Agent: Karl Price
California Department of Transportation, District 7
120 S. Spring Street
Los Angeles, CA 90012
Phone: (213) 897-1839 Fax: (213) 897-0685
3. Project Name: Routine Maintenance Drain Clearing Activities for Winter 2001
4. Project Location: Various locations throughout Los Angeles and Ventura Counties
5. Type of Project: Drain maintenance clearing
6. Project Description: The Applicant proposes to conduct routine maintenance drain clearing at 57 locations throughout Los Angeles and Ventura Counties, comprised of both soft-bottom and concrete-lined channels. The routine clearing is proposed in order to ensure proper water flow and protection of state highway facilities. Additionally, replacement of existing facilities will occur at two of the sites as follows:
 - *Site No. 53-036*
Replace an existing drain pipe with an approximate 120-foot section of 8-inch perforated pipe.
 - *Site No. 53-037*
Replace an existing drain pipe with an approximate 24-foot section of 8-inch pipe.
7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP Nos. 3 & 33 (Permit No. 2002-00183-SAD)
8. Other Required Regulatory Approvals: California Department of Fish and Game
Streambed Alteration Agreement

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9. California Environmental Quality Act (CEQA) Compliance: The proposed project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section 15301 (Existing Facilities).
10. Receiving Water/ Designated Beneficial Uses:
- Ditch tributary to Arroyo Conejo (Hydrologic Unit No. 403.68) MUN, GWR, FRSH, REC-1, REC-2, WARM, WILD
 - Ditch tributary to Revolon Slough (Hydrologic Unit No. 403.11) MUN, IND, AGR, GWR, REC-1, REC-2, WARM, WILD, WET
 - Ditch tributary to Arundell Barranca and Pacific Ocean (Ventura Marina) (Hydrologic Unit No. 403.11) IND, NAV, REC-1, REC-2, COMM, MAR, WILD, SHELL
 - Culvert tributary to Mugu Lagoon (Hydrologic Unit No. 403.11) NAV, REC-1, REC-2, COMM, EST, MAR, WILD, BIOL, RARE, MIGR, SPWN, SHELL, WET
 - Channel tributary to Las Virgenes Creek (Hydrologic Unit No. 404.22) MUN, REC-1, REC-2, WARM, COLD, WILD, RARE, MIGR, SPWN, WET
 - Ditch tributary to Dominguez Channel (Hydrologic Unit No. 405.12) MUN, NAV, REC-1, REC-2, COMM, WARM, EST, MAR, WILD
 - Channel tributary to Coyote Creek (Hydrologic Unit No. 405.15) MUN, IND, PROC, REC-1, REC-2, WARM, WILD, RARE
 - Channel tributary to Santa Clara River (Hydrologic Unit No. 403.51) MUN, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, WILD, RARE, WET
 - Channel tributary to South Fork Santa Clara River (Hydrologic Unit No. 403.51) MUN, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, WILD
 - Unnamed tributaries to Carbon Beach (Hydrologic Unit No. 404.16) NAV, REC-1, REC-2, COMM, MAR, WILD, SPWN, SHELL
 - Channel tributary to Arroyo Calabasas (Hydrologic Unit No. 405.21) MUN, REC-1, REC-2, WARM, WILD

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Project Information

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- Unnamed creek tributary to debris basin to the Los Angeles Reservoir (Hydrologic Unit No. 405.21)
MUN, IND, PROC, GWR, REC-1, REC-2, WARM, WILD, RARE
- Diamond Bar Creek, a tributary to San Jose Creek (Hydrologic Unit No. 405.41) MUN, GWR, REC-1, REC-2, WARM, WILD
- Tuna Canyon Creek (Hydrologic Unit No. 404.12)
MUN, REC-1, REC-2, WARM, WILD
- Big Rock Creek, a tributary to Carbon Beach (Hydrologic Unit No. 404.16)
NAV, REC-1, REC-2, COMM, MAR, WILD, SPWN, SHELL
- Ditch tributary to the Los Angeles River (Hydrologic Unit No. 405.21)
MUN, IND, GWR, REC-1, REC-2, WARM, WILD, WET
- Soldier Creek (Hydrologic Unit No. 405.43)
MUN, GWR, REC-1, REC-2, WARM, WILD, SPWN

11. Impacted Waters of the United States and Isolated waters of the state¹:

- *After-the-Fact Impacts:*
Federal jurisdictional wetlands: 1.25 permanent acres;
Non-wetland waters (unvegetated streambed): 0.321 permanent acres; and
Isolated waters of the state: 0.227 permanent acres
- *Proposed Impacts:*
Federal jurisdictional wetlands: 1.4822 permanent acres;
Isolated waters of the state: 3.66 permanent and 0.0028 temporary acres (vegetated streambed); and
3.45 permanent and 0.0052 temporary acres (unvegetated streambed)

12. Dredge Volume: None

¹ In light of the recent Supreme Court SWANCC decision regarding isolated waters, the U.S. Army Corps of Engineers has determined that the subject isolated waters are no longer under Federal jurisdiction as waters of the United States pursuant to the Clean Water Act. However, these waters are considered waters of the state and are within the jurisdiction of the Regional Water Quality Control Board pursuant to the Porter-Cologne Water Quality Control Act

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Project Information File No. 01-123

13. Related Projects Implemented/to be Implemented by the Applicant:
- The Applicant has requested a five-year permit/certification, in order to perform routine maintenance of the proposed drainages.
14. Avoidance/Minimization Activities:
- The Applicant has proposed several Best Management Practices, including, but not limited to, the following:
- Removal of minimal vegetation in the maintenance areas;
 - Whenever possible, work will be conducted in the dry season, incorporating a five-day clear weather forecast;
 - Using appropriate erosion control techniques, including: silt fencing, hay bales, sand bags, erosion control mats, and post-construction hydroseeding;
 - Perform upstream and downstream water quality monitoring;
 - Perform environmental reviews and biological surveys prior to commencement of work activities;
 - Removal of exotic plant species in around work areas; and
 - Adequate documentation of all vegetation removal occurring on each site to be reported to the appropriate resource agencies.
15. Proposed Compensatory Mitigation:
- To offset the proposed impacts, the Applicant has proposed to transfer funds to an appropriate conservation agency for the restoration or creation of 11.65 acres of wetland habitat. Funds will be transferred within six months of permits being issued. Agency or organizations will be identified and funds will be transferred to allow for restoration to take place in the designated amounts within each watershed.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification File No. 01-123

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**
2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.
4. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.

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5. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
6. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity that may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
7. The Applicant shall restore the proposed 0.008 acres of TEMPORARY IMPACTS and all other areas of temporary disturbance, which could result in a discharge or a threatened discharge to waters of the state. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species to the extent feasible. The Applicant shall implement appropriate Best Management Practices to control erosion and runoff from areas associated with this project, including appropriate channel and bank stabilization procedures.
8. The Applicant shall provide COMPENSATORY MITIGATION to offset both the “after-the-fact” and proposed impacts to **0.467 acres** and **9.93 acres** of jurisdictional waters, respectively, by transferring sufficient funds to an appropriate conservation agency for the creation, restoration and/or enhancement of a minimum of **22.9 acres** of wetland/riparian habitat. The corresponding mitigation-to-impact ratios are as follows: 5:1 for “after-the-fact” impacts, and 3:1, 2:1, 1.5:1, 1:1 and zero, depending on the functions and values of the receiving water as determined by the Regional Board in cooperation with the Applicant (see Attachment C).

ATTACHMENT B

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9. Within **six (6) months** of receipt of the U.S. Army Corps of Engineers' authorization under Section 404 of the federal Clean Water Act, the Applicant shall complete transfers of all mitigation funds and submit copies of any final agreements (including transfer dollar amount, size in acres, location defined by latitude and longitude, and a description and duration of mitigation activities) made between the Applicant and the conservation agency demonstrating compliance with the above compensatory mitigation requirement.
10. The Applicant shall provide ADDITIONAL COMPENSATORY MITIGATION at a ratio of at least **1:1 per maintenance event** (based on area of impact) to offset any subsequent impacts to aquatic resources as a result of any future drainage clearing activities. If the Applicant can demonstrate to the Regional Board, via photo documentation, that no aquatic resources (e.g., wetland/riparian vegetation) are present within the drainages immediately prior to conducting any clearing activities, this mitigation requirement may be waived. In the event that mitigation is required, the Applicant shall conduct onsite mitigation, including bank revegetation with riparian species native to the area and removal of non-native vegetation, if available. If onsite mitigation is unavailable, the Applicant shall transfer sufficient funds to an appropriate conservation agency for wetland and/or riparian mitigation activities based on the minimum 1:1 ratio. Any transfers of funds shall occur within **ninety (90) days** of commencement of the respective clearing activity. The Applicant shall submit to this Regional Board a copy of all agreements (including transfer dollar amount, size in acres, location defined by latitude and longitude, and a description and duration of mitigation activities) made between the Applicant and the conservation agency demonstrating compliance with this compensatory mitigation requirement. All mitigation activities shall occur within the respective impacted watershed to the extent feasible.
11. Prior to any maintenance activities within the subject drainages, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed short and long term schedule for all areas; (b) a description of the drainage's existing condition; (c) the area of proposed temporary impact within waters of the state; (d) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (e) any proposed compensatory mitigation. Notifications must be submitted a minimum of **four (4) weeks** prior to commencing work activities.
12. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **01-123**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
13. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.

ATTACHMENT B

Conditions of Certification File No. 01-123

14. *Enforcement:*

- (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
- (b) In response to a suspected violation of any condition of this certification, the (State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

15. This certification shall expire **five (5) years** from the date of signature. The Applicant may request a renewal of this certification prior to its termination. Renewals may be granted in **five-year (5-year)** increments, may be subject to additional filing fees, and will require Regional Board approval. If the Applicant fails to request a renewal prior to the certification's expiration, then the Applicant shall submit a new application and appropriate filing fees.

ATTACHMENT C

Conditions of Certification File No. 01-123

Site Number	Isolated Waters				U.S. Waters		Required Mitigation-to-Impact Ratio	Mitigation Area
	Permanent		Temporary		Permanent			
	vegetated	non-vegetated	vegetated	non-vegetated	vegetated	non-vegetated		
52-001	0.0689						2:1	0.1378
52-002	0.2755						3:1	0.8265
52-003	0.1584						2:1	0.3168
52-004	0.2032						1.5:1	0.3048
52-006		0.3627					1:1	0.3627
52-007		0.9642					1:1	0.9642
52-008	0.5414						1.5:1	0.8121
52-009	1.1478						1:1	1.1478
52-011	0.2424						1.5:1	0.3636
52-012	0.1469						1.5:1	0.22035
52-013	0.0007						2:1	0.0014
52-014	0.0011						2:1	0.0022
52-015	0.0011						2:1	0.0022
52-016	0.0034						1.5:1	0.0051
52-017	0.0011						1:1	0.0011
52-018	0.0009						2:1	0.0018
52-019	0.0023						2:1	0.0046
52-020	0.0014						1.5:1	0.0021
52-021	0.0171						2:1	0.0342
53-001	0.1377						3:1	0.4131
53-002	0.0241						3:1	0.0723
53-003	0.0138						3:1	0.0414
53-004	0.1205						3:1	0.3615
53-005		0.0918					1:1	0.0918
53-006		0.0172					1:1	0.0172
53-007		0.2296					1:1	0.2296
53-008	0.0172						1.5:1	0.0258
53-009	0.0069						1.5:1	0.01035
53-010		0.0092					1:1	0.0092
53-011	0.0046						1.5:1	0.0069
53-013		0.0225					1:1	0.0225
53-014		0.0275					5:1	0.1375
53-016	0.1997						5:1	0.9985
53-018					0.24		5:1	1.2
53-019	0.0338						1:1	0.0338
53-024					0.2514		2:1	0.5028
53-025	0.0155						3:1	0.0465
53-026	0.0551						3:1	0.1653
53-027					0.014		3:1	0.042
53-028	0.124						1:1	0.124
53-029	0.2479						3:1	0.7437
53-030					1.1938		3:1	3.5814
53-031	0.0165						3:1	0.0495
53-032	0.0165						3:1	0.0495
53-033					0.023		2:1	0.046
53-034		1.7218					1:1	1.7218
53-035		0.0138					1:1	0.0138
53-036			0.0028	0.0041			0:0	0
53-037				0.0011			0:0	0
53-038	0.0118						2:1	0.0236
53-039	0						0:0	0
53-040						0.209	5:1	1.045
53-041						0.1122	5:1	0.561
53-042					0.25		5:1	1.25
53-043					0.1713		5:1	0.8565
53-044					0.5854		5:1	2.927
53-045		0.0172					0:0	0
Totals:	3.8592	3.4775	0.0028	0.0052	2.7289	0.3212	Total Mitigation =	22.9322

Total Impact = 10.3948 acres